

EXHIBIT A



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

May 9, 2019

MR. KEVIN PATRICK SMITH  
 \*\*32952-054  
 FEDERAL CORRECTIONAL CENTER ALLENWOOD  
 POST OFFICE BOX 2000  
 WHITE DEER, PA 17887

FOIPA Request No.: 1435885-000

Subject: SMITH, KEVIN PATRICK

Dear Mr. Smith:

This acknowledges receipt of your Freedom of Information/Privacy Acts (FOIPA) request to the FBI.

The FOIPA number listed above has been assigned to your request; however, your letter did not contain sufficient information to conduct an accurate search of the Central Records System. Please provide the below information.

Full Name: KEVIN PATRICK SMITH FEDERAL ID# 32952-054  
 Current Address: FCC ALLENWOOD, P.O. BOX 2000 WHITE DEER, PENNSYLVANIA 17887  
 Date of Birth: APRIL 12 1957 4-12-57 Place of Birth: MANHATTAN, NEW YORK CITY  
 Daytime Telephone Number: N/A

Please provide any additional information to assist the FBI with our search for records, such as prior addresses, employments, aliases, approximate time frame for the information sought.

ON FEBRUARY 28, 2013 BOGUS MURDER CHARGE, BROOKLYN FEDERAL COURT G.J.  
VOTED NOT TO INDICT KEVIN PATRICK SMITH, . ALSO: ON JUNE 28, 2014  
BOGUS MURDER CHARGE, MANHATTAN FEDERAL GRAND JURY VOTED NOT TO INDICT.

Under penalty of perjury, I hereby declare that I am the person named above and I understand that any falsification of this statement is punishable under the provisions of Title 18 U.S.C. § 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years, or both; and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of Title 5 U.S.C. § 552a (i)(3), as a misdemeanor and by a fine of not more than \$5,000. The signature must be legible.

Signature Kevin Patrick Smith

Date 5-14-2019

If you submitted your request through the FBI's eFOIPA portal and you are receiving correspondence through standard mail, it was determined your request did not meet the eFOIPA terms of service.


Fax your request to the Work Process Unit at (540) 868-4997, or mail to 170 Marcel Drive, Winchester, VA 22602. If we do not receive a response from you within 30 days from the date of this letter, your request will be closed. You must include the FOIPA Request Number with any communication regarding this matter.

You may file an appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's FOIA online portal by creating an account on the following web site: <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically transmitted within ninety (90) days from the date of this letter in order to be considered timely. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by contacting the Office of Government Information Services (OGIS) at 877-684-6448, or by emailing [ogis@nara.gov](mailto:ogis@nara.gov). Alternatively, you may contact the FBI's FOIA Public Liaison by emailing [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov). If you submit your dispute resolution correspondence by email, the subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified.

For questions on how to reasonably describe your request, please email us at [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov). You may also visit [www.fbi.gov](http://www.fbi.gov) and select "Services," "Records Management," and "Freedom of Information/Privacy Act" for additional guidance.

Sincerely,



David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section  
Information Management Division



U.S. Department of Justice

Federal Bureau of Investigation  
Washington, D.C. 20535

June 21, 2019

MR. KEVIN PATRICK SMITH  
\*\*32952-054  
FEDERAL CORRECTIONAL CENTER ALLENWOOD  
POST OFFICE BOX 2000  
WHITE DEER, PA 17887

FOIPA Request No.: 1435885-000  
Subject: SMITH, KEVIN PATRICK  
(GRAND JURY INFORMATION FROM BROOKLYN  
02/28/2013) AND MANHATTAN (06/28/2014))

Dear Mr. Smith:

This responds to your Freedom of Information/Privacy Acts (FOIPA) request. Please see the paragraphs below for relevant information specific to your request as well as the enclosed FBI FOIPA Addendum for standard responses applicable to all requests.

The FBI has completed its search for records responsive to your request. The material you requested is located in an investigative file which is exempt from disclosure pursuant to 5 U.S.C. § 552(b)(7)(A). 5 U.S.C. § 552(b)(7)(A) exempts from disclosure:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ... could reasonably be expected to interfere with enforcement proceedings...

The records responsive to your request are law enforcement records; there is a pending or prospective law enforcement proceeding relevant to these responsive records, and release of the information could reasonably be expected to interfere with enforcement proceedings. Therefore, your request is being administratively closed. For a further explanation of this exemption, see the enclosed Explanation of Exemptions.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. "Part 1" of the Addendum includes standard responses that apply to all requests. "Part 2" includes additional standard responses that apply to all requests for records on individuals. "Part 3" includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

For questions regarding our determinations, visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website under "Contact Us." The FOIPA Request Number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

You may file an appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's FOIA online portal by creating an account on the following web site: <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically transmitted within ninety (90) days from the date of this letter in order to be considered timely. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

EXHIBIT 3

You may seek dispute resolution services by contacting the Office of Government Information Services (OGIS) at 877-684-6448, or by emailing [ogis@nara.gov](mailto:ogis@nara.gov). Alternatively, you may contact the FBI's FOIA Public Liaison by emailing [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov). If you submit your dispute resolution correspondence by email, the subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified.

Sincerely,



David M. Hardy  
Section Chief,  
Record/Information  
Dissemination Section  
Information Management Division

Enclosure(s)



NATIONAL ARCHIVES and RECORDS ADMINISTRATION  
8601 ADELPHI ROAD · OGIS | COLLEGE PARK, MD 20740-6001  
www.archives.gov/ogis | ogis@nara.gov | o: 202.741.5770 | f: 202.741.5769 | t: 877.684.6448

August 13, 2019--Sent via U.S. mail

Kevin P. Smith  
Register No. 32952-054  
F.C.I. Allenwood Medium  
Federal Correctional Institution  
P.O. Box 2000  
White Deer, PA 17887

Re: Case No. 19-02725

Dear Mr. Smith:

This responds to your request for assistance from the Office of Government Information Services (OGIS), which we received on August 1, 2019 via U.S. mail. OGIS is the Federal Freedom of Information Act (FOIA) Ombudsman; in this role, we complement existing practice and procedure by assisting with the FOIA process. We provide information to FOIA requesters and Federal agencies to increase understanding and resolve disputes. However, OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. Using OGIS services does not affect your right to pursue litigation.

We carefully reviewed your submission of information and we understand that the Federal Bureau of Investigation (FBI) withheld the records you requested pursuant to FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). This exemption protects law enforcement records pertaining to a pending or prospective law enforcement investigation or proceeding when release of information "could reasonably be expected to interfere" with that investigation or enforcement proceeding. Courts have recognized the specific harm of disclosing law enforcement records, including the premature release of witness statements and potential documentary evidence in pending criminal cases, civil cases or in administrative enforcement proceedings.

Courts have ruled that Exemption 7(A) remains applicable throughout long-term law enforcement investigations. However, Exemption 7(A) is "temporal" in nature; it is not intended to endlessly protect material simply because it is in an investigatory file. For this reason, you may wish to file a new request for the records you seek in a few months. Please be aware that once Exemption 7(A)'s protections are lifted, the agency may still apply other exemptions to protect the records.

We hope that this information is useful in understanding the FBI's response to your request. At this time, it appears that there is no further assistance OGIS can offer. If you have questions or concerns that we have not addressed, please contact us again. Thank you for bringing this matter to OGIS. We will close your case.

Sincerely,

The OGIS Staff





U.S. Department of Justice  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

Kevin P. Smith

Register No. 32952-054  
Federal Correctional Institution  
Post Office Box 2000  
White Deer, PA 17887

Re: Appeal No. DOJ-AP-2019-006028  
Request No. 1435885  
SRO:EMY

VIA: U.S. Mail

Dear Kevin Smith:

You appealed from the action of the Federal Bureau of Investigation on your Freedom of Information Act request for access to certain records, including grand jury records. I note that your appeal concerns the FBI's full denial of your request dated June 21, 2019.

In order to provide you with the greatest possible access to responsive records, your request was reviewed under both the Privacy Act of 1974 and the FOIA. I have determined that the records responsive to your request are exempt from the access provision of the Privacy Act. See 5 U.S.C. § 552a(j)(2); see also 28 C.F.R. § 16.96 (2018). For this reason, I have reviewed your request under the FOIA.

After carefully considering your appeal, I am affirming the FBI's action on your request. The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. The FBI properly withheld this information in full because it is protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(7)(A) and it is reasonably foreseeable that disclosure of this information would harm the interests protected by this provision. This provision concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to interfere with enforcement proceedings.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the FBI in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

- 2 -

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

8/20/2019

X 

Sean R. O'Neill

Chief, Administrative Appeals Staff

Signed by: SEAN O'NEILL